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CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1858

Introduced by Assembly Member Blumenfield
(Coauthors: Assembly Members Ammiano, Monning, and Skinner)

February 12, 2010

An act to amend, *repeal, and add* Sections 121349, 121349.1, 121349.2, and 121349.3 of, *and to add and repeal Section 121349.4 to*, the Health and Safety Code, relating to public health.

LEGISLATIVE COUNSEL'S DIGEST

AB 1858, as amended, Blumenfield. Hypodermic needles and syringes: exchange services.

Existing law regulates the sale, possession, and disposal of hypodermic needles and syringes, and requires, with certain exceptions, a prescription to purchase a hypodermic needle or syringe for human use. Existing law prohibits any person from possessing or having under his or her control any hypodermic needle or syringe, except in accordance with those regulatory provisions.

Existing law authorizes a clean needle and syringe exchange project in any city and county, county, or city, as specified.

This bill would, *until January 1, 2016*, permit the State Department of Public Health to authorize certain entities, that meet prescribed conditions, to provide hypodermic needle and syringe exchange services in any location where the department determines that the conditions exist for the rapid spread of HIV, viral hepatitis, or any other potentially deadly or disabling infection spread through the sharing of used hypodermic needles and syringes. The bill, *until January 1, 2016*, would require the entities to submit an application to the department, would require a ~~45-day~~ 45-day public comment period, would specify that participants shall not be subject to criminal prosecution for possession of needles and syringes acquired under the program, and would make conforming changes.

The bill would also, *until January 1, 2016*, require the department to establish and maintain on its Internet Web site the address and contact information of programs providing hypodermic needle and syringe exchange services. The bill would, *until January 1, 2016*, change related hearing requirements from annually to biennially. *The bill would until January 1, 2016, require the department to report to prescribed committees of the Legislature every 2 years, as prescribed.*

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 121349 of the Health and Safety Code
- 2 is amended to read:
- 3 121349. (a) The Legislature finds and declares that scientific
- 4 data from needle exchange programs in the United States and in
- 5 Europe have shown that the exchange of used hypodermic needles
- 6 and syringes for clean hypodermic needles and syringes does not
- 7 increase drug use in the population, can serve as an important
- 8 bridge to treatment and recovery from drug abuse, and can curtail
- 9 the spread of human immunodeficiency virus (HIV) infection
- 10 among the intravenous drug user population.
- 11 (b) In order to reduce the spread of HIV infection and
- 12 bloodborne hepatitis among the intravenous drug user population
- 13 within California, the Legislature hereby authorizes a clean needle
- 14 and syringe exchange project pursuant to this chapter in any city
- 15 and county, county, or city upon the action of a county board of
- 16 supervisors and the local health officer or health commission of

1 that county, or upon the action of the city council, the mayor, and
2 the local health officer of a city with a health department, or upon
3 the action of the city council and the mayor of a city without a
4 health department.

5 (c) In order to reduce the spread of HIV infection, viral hepatitis,
6 and other potentially deadly bloodborne infections, the State
7 Department of Public Health may, notwithstanding any other
8 provision of law, authorize entities that provide services set forth
9 in paragraph (1) of subdivision (d), apply for authorization under
10 this chapter, and have sufficient staff and capacity to provide
11 services as described in Section 121349.1, as determined by the
12 department, to provide hypodermic needle and syringe exchange
13 services consistent with state and federal standards, including those
14 of the United States Public Health Service, in any location where
15 the department determines that the conditions exist for the rapid
16 spread of HIV, viral hepatitis, or any other potentially deadly or
17 disabling infection spread through the sharing of used hypodermic
18 needles and syringes.

19 (d) In order for an entity to be authorized to conduct a project
20 pursuant to this chapter by the State Department of Public Health,
21 its application to the department shall demonstrate that the entity
22 complies with all of the following minimum standards:

23 (1) The entity provides, directly or through referral, any of the
24 following services:

- 25 (A) Drug abuse treatment services.
- 26 (B) HIV or hepatitis C screening.
- 27 (C) Hepatitis A and hepatitis B vaccination.
- 28 (D) Screening for sexually transmitted infections.
- 29 (E) Housing services for the homeless, for victims of domestic
30 violence, or other similar housing services.
- 31 (F) Services related to provision of education and materials for
32 the reduction of sexual risk behaviors, including, but not limited
33 to, the distribution of condoms.

34 (2) The entity has the capacity to commence needle and syringe
35 exchange services within three months of authorization.

36 (3) The entity has adequate funding to do all of the following
37 at reasonably projected program participation levels:

38 (A) Provide needles and syringe exchange services for all of its
39 participants.

1 (B) Provide HIV and viral hepatitis prevention education
2 services for all of its participants.

3 (C) Provide for the safe recovery and disposal of used syringes
4 and sharps waste from all of its participants.

5 (4) The entity has the capacity, and an established plan, to collect
6 evaluative data in order to assess program impact, including, but
7 not limited to, all of the following:

8 (A) The total number of persons served.

9 (B) The total number of syringes and needles distributed,
10 recovered, and disposed of.

11 (C) The total numbers and types of referrals to drug treatment
12 and other services.

13 (5) If the application is provisionally deemed appropriate by
14 the State Department of Public Health the department shall, at least
15 45 days prior to approval of the application, provide for a period
16 of public comment as follows:

17 (A) Post on the department's Internet Web site the name of the
18 applicant, the nature of the services, and the location where the
19 applying entity will provide the services.

20 (B) Send a written and an electronic mail notice to the local
21 public health officer of the affected jurisdiction.

22 (e) The State Department of Public Health shall establish and
23 maintain on its Internet Web site the address and contact
24 information of programs providing hypodermic needle and syringe
25 exchange services pursuant to subdivision (c).

26 (f) The authorization provided under this section shall only be
27 for a clean needle and syringe exchange project as described in
28 Section 121349.1.

29 (g) *This section shall become inoperative on January 1, 2016,*
30 *and as of that date is repealed.*

31 SEC. 2. *Section 121349 is added to the Health and Safety Code,*
32 *to read:*

33 *121349. (a) The Legislature finds and declares that scientific*
34 *data from needle exchange programs in the United States and in*
35 *Europe have shown that the exchange of used hypodermic needles*
36 *and syringes for clean hypodermic needles and syringes does not*
37 *increase drug use in the population, can serve as an important*
38 *bridge to treatment and recovery from drug abuse, and can curtail*
39 *the spread of human immunodeficiency virus (HIV) infection among*
40 *the intravenous drug user population.*

1 ***(b) In order to attempt to reduce the spread of HIV infection***
2 ***and bloodborne hepatitis among the intravenous drug user***
3 ***population within California, the Legislature hereby authorizes a***
4 ***clean needle and syringe exchange project pursuant to this chapter***
5 ***in any city and county, county, or city upon the action of a county***
6 ***board of supervisors and the local health officer or health***
7 ***commission of that county, or upon the action of the city council,***
8 ***the mayor, and the local health officer of a city with a health***
9 ***department, or upon the action of the city council and the mayor***
10 ***of a city without a health department.***

11 ***(c) The authorization provided under this section shall only be***
12 ***for a clean needle and syringe exchange project as described in***
13 ***Section 121349.1***

14 ***(d) This section shall become operative on January 1, 2016.***

15 ~~SEC. 2.~~

16 **SEC. 3.** Section 121349.1 of the Health and Safety Code is
17 amended to read:

18 121349.1. ***(a) The State Department of Public Health, or a city***
19 ***and county, or a county, or a city with or without a health***
20 ***department, in consultation with the State Department of Public***
21 ***Health, that acts to authorize a clean needle and syringe exchange***
22 ***project pursuant to this chapter shall authorize the exchange of***
23 ***clean hypodermic needles and syringes, as recommended by the***
24 ***United States Public Health Service, subject to the availability of***
25 ***funding, as part of a network of comprehensive services, including***
26 ***treatment services, to combat the spread of HIV and bloodborne***
27 ***hepatitis infection among injection drug users. Staff and volunteers***
28 ***participating in an exchange project authorized by the state, county,***
29 ***city, or city and county pursuant to this chapter shall not be subject***
30 ***to criminal prosecution for violation of any law related to the***
31 ***possession, furnishing, or transfer of hypodermic needles or***
32 ***syringes during participation in an exchange project. Program***
33 ***participants shall not be subject to criminal prosecution for***
34 ***possession of needles or syringes acquired from an authorized***
35 ***needle and syringe exchange project entity.***

36 ***(b) This section shall become inoperative on January 1, 2016,***
37 ***and as of that date is repealed.***

38 **SEC. 4.** Section 121349.1 is added to the Health and Safety
39 Code, to read:

1 121349.1. (a) A city and county, or a county, or a city with or
2 without a health department, that acts to authorize a clean needle
3 and syringe exchange project pursuant to this chapter shall, in
4 consultation with the State Department of Public Health, authorize
5 the exchange of clean hypodermic needles and syringes, as
6 recommended by the United States Secretary of Health and Human
7 Services, subject to the availability of funding, as part of a network
8 of comprehensive services, including treatment services, to combat
9 the spread of HIV and bloodborne hepatitis infection among
10 injection drug users. Providers participating in an exchange
11 project authorized by the county, city, or city and county pursuant
12 to this chapter shall not be subject to criminal prosecution for
13 possession of needles or syringes during participation in an
14 exchange project.

15 (b) This section shall become operative on January 1, 2016.

16 ~~SEC. 3.~~

17 SEC. 5. Section 121349.2 of the Health and Safety Code is
18 amended to read:

19 121349.2. (a) Local government, local public health officials,
20 and law enforcement shall be given the opportunity to comment
21 on clean needle and syringe exchange programs on a biennial basis.
22 The public shall be given the opportunity to provide input to local
23 leaders to ensure that any potential adverse impacts on the public
24 welfare of clean needle and syringe exchange programs are
25 addressed and mitigated.

26 (b) This section shall become inoperative on January 1, 2016,
27 and as of that date is repealed.

28 SEC. 6. Section 121349.2 is added to the Health and Safety
29 Code, to read:

30 121349.2. (a) Local government, local public health officials,
31 and law enforcement shall be given the opportunity to comment
32 on clean needle and syringe exchange programs on an annual
33 basis. The public shall be given the opportunity to provide input
34 to local leaders to ensure that any potential adverse impacts on
35 the public welfare of clean needle and syringe exchange programs
36 are addressed and mitigated.

37 (b) This section shall become operative on January 1, 2016.

38 ~~SEC. 4.~~

39 SEC. 7. Section 121349.3 of the Health and Safety Code is
40 amended to read:

1 121349.3. (a) The health officer of the participating jurisdiction
2 shall present biennially at an open meeting of the board of
3 supervisors or city council a report detailing the status of clean
4 needle and syringe exchange programs, including, but not limited
5 to, relevant statistics on bloodborne infections associated with
6 needle sharing activity and the use of public funds for these
7 programs. Law enforcement, administrators of alcohol and drug
8 treatment programs, other stakeholders, and the public shall be
9 afforded ample opportunity to comment at this annual meeting.
10 The notice to the public shall be sufficient to ensure adequate
11 participation in the meeting by the public. This meeting shall be
12 noticed in accordance with all state and local open meeting laws
13 and ordinances, and as local officials deem appropriate. For
14 hypodermic needle and syringe exchange services authorized by
15 the State Department of Public Health, a biennial report shall be
16 provided by the department to the local health officer based on the
17 reports to the department from service providers within the
18 jurisdiction of the local health officer.

19 (b) *This section shall become inoperative on January 1, 2016,*
20 *and as of that date is repealed.*

21 SEC. 8. *Section 121349.3 is added to the Health and Safety*
22 *Code, to read:*

23 121349.3. (a) *The health officer of the participating*
24 *jurisdiction shall present annually at an open meeting of the board*
25 *of supervisors or city council a report detailing the status of clean*
26 *needle and syringe exchange programs, including, but not limited*
27 *to, relevant statistics on bloodborne infections associated with*
28 *needle sharing activity and the use of public funds for these*
29 *programs. Law enforcement, administrators of alcohol and drug*
30 *treatment programs, other stakeholders, and the public shall be*
31 *afforded ample opportunity to comment at this annual meeting.*
32 *The notice to the public shall be sufficient to ensure adequate*
33 *participation in the meeting by the public. This meeting shall be*
34 *noticed in accordance with all state and local open meeting laws*
35 *and ordinances, and as local officials deem appropriate.*

36 (b) *This section shall become operative on January 1, 2016.*

37 SEC. 9. *Section 121349.4 is added to the Health and Safety*
38 *Code, to read:*

39 121349.4. (a) *Notwithstanding Sections 9795 and 10231.5 of*
40 *the Government Code, the State Department of Public Health shall,*

1 *commencing not later than November 1, 2014, submit to the Senate*
2 *Committee on Budget and Fiscal Review, and Assembly Committee*
3 *on Budget, the Senate and the Assembly Committees on Health,*
4 *and the Joint Legislative Budget Committee, all biennial reports*
5 *made to open meetings of county boards of supervisors or city*
6 *councils pursuant to Section 121349.2, and the number and*
7 *location of all programs authorized by the department since*
8 *January 1, 2011.*
9 *(b) This section shall remain in effect only until January 1, 2016,*
10 *and as of that date is repealed.*